

**CASE NO. 1:23-CV-02882-JLR
CASE NO. 1:23-CV-03144-JLR
CASE NO. 1:23-CV-05570-JLR**

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**IN RE CELSIUS NETWORK LLC, ET AL.,
*DEBTORS.***

**IMMANUEL J. HERRMANN & DANIEL A. FRISHBERG,
APPELLANTS,
V.
CELSIUS SPV INVESTORS, LP, ET AL.,
APPELLEES.**

**APPEAL FROM THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
BANKR. CASE NO. 22-10964 (MG)**

**JOINT STIPULATION OF VOLUNTARY DISMISSAL
OF CUSTOMER-APPELLANTS' APPEALS**

February 2, 2024

This Joint Stipulation of Voluntary Dismissal pursuant to Federal Rule of Bankruptcy Procedure 8023 is made by and among Immanuel Herrmann and Daniel Frishberg (the “**Customer-Appellants**”) and Appellees Community First Partners, LLC, Celsius SPV Investors, LP, Celsius New SPV Investors, LP, and CDP Investissemens Inc. (collectively, the “**Series B Preferred Holders**” and, together with the Customer-Appellants, the “**Parties**”).

RECITALS

WHEREAS, on March 17, 2023, the United States Bankruptcy Court for the Southern District of New York entered its *Order Regarding Which Debtor Entities Have Liability for Customer Contract Claims Under the Terms of Use* [Bankr. Docket No. 2265]¹ (the “**Customer Claims Order**”).

WHEREAS, on April 14, 2023, the Customer-Appellants filed a *Notice of Appeal* [Customer Appeal Docket No. 1] from the Customer Claims Order, initiating the Customer Appeal.

WHEREAS, on June 20, 2023, the United States Bankruptcy Court for the Southern District of New York entered its *Order Denying Immanuel Herrmann and*

¹ “Bankr. Docket No.” refers to the docket in *In re Celsius Network LLC, et al.*, No. 22-10964 (Bankr. S.D.N.Y.). “Customer Appeal Docket No.” refers to the docket in the appeal styled as *Herrmann & Frishberg v. Celsius SPV Investors, LP, et al.*, No. 23-CV-03144-JLR (S.D.N.Y.) (the “**Customer Appeal**”). “Rule 60 Docket No.” refers to the docket in the appeal styled as *Herrmann & Frishberg v. Celsius SPV Investors, LP, et al.*, No. 23-CV-05570-JLR (S.D.N.Y.) (the “**Rule 60 Appeal**”).

Daniel Frishberg's Motion to Vacate the Customers Claims Opinion and Order
[Bankr. Docket No. 2819] (the “**Rule 60 Order**”).

WHEREAS, on June 29, 2023, the Customer-Appellants filed a *Notice of Appeal* [Rule 60 Docket No. 1] from the Rule 60 Order, initiating the Rule 60 Appeal.

WHEREAS, on July 17, 2023, the Customer-Appellants reached a global settlement with the Debtors and the Official Committee of Unsecured Creditors (the “**Customer-Appellants Settlement**”). *See* Docket No. 40, Ex. A. Pursuant to the Customer-Appellants Settlement, the Customer-Appellants agreed that upon the effectiveness of a plan of reorganization incorporating the terms of the Customer-Appellants Settlement, to voluntarily dismiss the Customer and Rule 60 Appeals, with prejudice.

WHEREAS, on January 31, 2024, the Debtors’ plan of reorganization, incorporating the terms of the Customer-Appellants Settlement, became effective. *See* Bankr. Docket No. 4298.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated into this Stipulation, the Parties stipulate and agree as follows:

STIPULATION

1. Pursuant to the terms of the Customer-Appellants Settlement, the Customer and Rule 60 Appeals are dismissed with prejudice.

2. Pursuant to Federal Rule of Bankruptcy Procedure 8023(a), each of the Parties shall bear its own fees and costs.

3. This Stipulation may be executed in counterparts and signature pages exchanged by electronic means, and each counterpart shall be deemed to be an original, with all counterparts constituting the same Stipulation.

[Signature page follows.]

SO STIPULATED:

Dated: February 2, 2024

SERIES B PREFERRED HOLDERS
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– and –

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Pro Se Customer-Appellant

SO ORDERED:

Dated: February 5, 2024
New York, New York



THE HONORABLE JENNIFER L. ROCHON
UNITED STATES DISTRICT JUDGE